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-- REMARKS --

The present response replies to a First Non-Final Office Action mailed March 22, 2004. Claims 1-24 and added claim 25 are pending in the application. Claims 1-10 and 12-24 have been rejected. Claims 11-12 have been objected to.

Examiner Perez has rejected claims 1-5, 13-14 and 20-22 as being anticipated by Dent (U.S. Patent No. 6,553,229). The Applicant has considered the examiner's remarks concerning the patentability of claims 1-5, 13-14 and 20-22. To warrant this 35 U.S.C. § 102(e) rejection of claims 1-5, 13-14 and 20-22, the present invention must have been described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent. The 102(e) rejections are traversed.

Claim 1 requires "selecting a second control channel of the carrier" (emphasis added). Dent describes no such element. Dent describes tuning the receiver to the first 30 kHz channel in the region of the greatest signal strength (Dent, col. 9 lines 1-2) and tuning the receiver to the channel containing the greatest signal strength, and then an attempt is made to detect a D-AMPS traffic signal or a Digital Control Channel (Dent, col. 9, lines 15-18). Channel selection is based on signal strength, not on whether the control channel is of the carrier. Scanning strategies illustrated in Fig. 5A, Fig. 5B and Fig. 5C of Dent (block 516, block 548, and block 572), for example, emphasize signal strength with no consideration given to the selection of a control channel based on the carrier, also referred to as the service carrier or the home carrier (see, for example, blocks 310 and 355 of the instant invention).

Furthermore, Dent does not describe "receiving a blocked signal" as in Claim 1 of the instant invention; neither does Dent describe "selecting a second control channel of the carrier in response to the blocked signal" (emphasis added). Fig. 5A, Fig. 5B and Fig. 5C of Dent, for example, give no indication that a blocked signal is received or considered, and instead focus solely on signal strength (block 506, block 516, block 544, block 548, block 556, block 558, block 568, block 572). Therefore, claim 1 is not described by Dent and withdrawal of the rejection to claim 1 is requested.

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Claims 2-5 depend from claim 1, and are therefore allowable over claim 1 for at least the same reasons. Withdrawal of the rejections to claims 2-5 is requested.

Claim 13 requires "computer program code for selecting a second control channel *of the carrier*" (emphasis added). Dent describes no such element. As discussed above, Dent describes tuning the receiver to the first 30 kHz channel in the region of the greatest signal strength (Dent, col. 9 lines 1-2) and tuning the receiver to the channel containing the greatest signal strength, and then an attempt is made to detect a D-AMPS traffic signal or a Digital Control Channel (Dent, col. 9, lines 15-18). Channel selection is based on signal strength, not on whether the control channel is of the carrier. Scanning strategies illustrated in Fig. 5A, Fig. 5B and Fig. 5C of Dent (block 516, block 548, and block 572), for example, emphasize signal strength with no consideration given to selection of a control channel based on the carrier, also referred to as the service carrier or the home carrier (see, for example, blocks 310 and 355 of the instant invention).

Furthermore, Dent does not describe "computer program code for selecting a second control channel of the carrier *in response to the blocked signal*" (emphasis added) as in Claim 13 of the instant invention. Fig. 5A, Fig. 5B and Fig. 5C of Dent, for example, do not indicate that a blocked signal is received or considered, and instead focus solely on signal strength (block 506, block 516, block 544, block 548, block 556, block 558, block 568, block 572). Therefore, claim 13 is not described by Dent and withdrawal of the rejections to claim 13 is requested.

Claim 14 depends from claim 13, and is therefore allowable over claim 13 for at least the same reasons. Withdrawal of the rejection to claim 14 is requested.

Claim 20 requires "means for selecting a second control channel *of the carrier*" (emphasis added). Dent describes no such element. As conveyed above, Dent describes tuning the receiver to the first 30 kHz channel in the region of the greatest signal strength (Dent, col. 9 lines 1-2) and tuning the receiver to the channel containing the greatest signal strength, and an attempt is made to detect a D-AMPS traffic signal or a Digital Control Channel (Dent, col. 9, lines 15-18). Channel selection is based on signal strength, not on whether the control channel is of the

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carrier. Inspection of Fig. 5A, Fig. 5B and Fig. 5C of Dent (block 516, block 548, and block 572), for example, show channel selection based on signal strength with no consideration given to selection of a control channel based on the carrier, also referred to as the service carrier or the home carrier in the instant invention (see, for example, blocks 310 and 355 and associated text)

Furthermore, Dent does not describe "means for selecting a second control channel of the carrier *in response to the blocked signal*" (emphasis added) as in Claim 20 of the instant invention. Fig. 5A, Fig. 5B and Fig. 5C of Dent, for example, do not indicate that a blocked signal is received or considered, with continued emphasis based on signal strength (block 506, block 516, block 544, block 548, block 556, block 558, block 568, block 572). Therefore, claim 20 is not described by Dent and withdrawal of the rejections to claim 20 is requested.

Claims 21-22 depend from claim 20, and are therefore allowable over claim 20 for at least the same reasons. Withdrawal of the rejections to claims 21-22 is requested.

Claims 6-8, 10, 15, 16, 18 and 23 were rejected as unpatentable over Dent (6,553,229) in view of Raith et al. (6,073,005). The rejections of claims 6-8, 10, 15, 16, 18 and 23 are traversed. Claims 6-8 and 10 depend from claim 1, and are therefore allowable over claim 1 for at least the same reasons. Any claim depending from a non-obvious claim is also non-obvious. See MPEP 2143.03 and *In Re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988) (where an independent claim is non-obvious, any claims depending therefrom are also non-obvious.) Claims 15, 16 and 18 depend from claim 13, and are therefore allowable over claim 13 for at least the same reasons. Claim 23 depends from claim 20, and is therefore allowable over claim 20 for at least the same reasons.

Withdrawal of the rejections to claims 6-8, 10, 15, 16, 18 and 23 is requested.

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Claims 9 and 17 were rejected as unpatentable over Dent (6,553,229) and Raith et al. (6,073,005) in view of Dutta et al. (US2002/0137489). The rejections of claims 9 and 17 are traversed. Claim 9 depends from claim 1, and is therefore allowable over claim 1 for at least the same reasons. Any claim depending from a non-obvious claim is also non-obvious. See MPEP 2143.03 and *In Re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988) (where an independent claim is non-obvious, any claims depending therefrom are also non-obvious.) Claim 17 depends from claim 13, and is therefore allowable over claim 13 for at least the same reasons.

Withdrawal of the rejections to claims 9 and 17 is requested.

Claims 19 and 24 were rejected under 35 U.S.C. 103(a) as unpatentable over Dent (6,553,229) in view of Dutta et al. (US2002/0137489). The rejections of claims 19 and 24 are traversed. Claim 19 depends from claim 13, and is therefore allowable over claim 13 for at least the same reasons. Any claim depending from a non-obvious claim is also non-obvious. See MPEP 2143.03 and *In Re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988) (where an independent claim is non-obvious, any claims depending therefrom are also non-obvious). Claim 24 depends from claim 20, and is therefore allowable over claim 20 for at least the same reasons.

Withdrawal of the rejections to claims 19 and 24 is requested.

Claims 11 and 12 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Claim 11 has been amended into independent form including all of the limitations of the base claim and any intervening claims. Claim 12 depends directly from claim 11, and therefore contains all of the limitations of the base claim.

Withdrawal of the objections to claims 11 and 12 is requested.

To further clarify the invention, new claims 25-28 expressly define "carrier" in claims 1, 11, 13 and 20 as a "home carrier". The Applicant kindly requests examination of new claims 25-28 without prejudice and in light of supportive arguments given above for claims 1, 11, 13 and 20.

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**SUMMARY**

The Applicant respectfully submits that claims 1-28 as listed herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and passage to issue of the present application is respectfully requested. If any points remain at issue that may best be resolved through a personal or telephonic interview, the examiner is respectfully requested to contact the undersigned at the telephone number listed below.

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Respectfully submitted,  
STEVEN P. SCHWINKE

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